



COMPETITION COMMISSION OF INDIA

***Suo Motu* Case No. 02 of 2018**

***In Re:* Alleged anti-competitive conduct of taxi unions in the State of Goa**

Against:

- | | |
|--|-----------------------------|
| 1. South Goa Tourist Taxi Owners Association
House No. 19, Adsulim, Opp. Dando Grounds,
Benaulim, Salcette – 403 716, Goa | Opposite Party No. 1 |
| 2. North Goa Tourist Taxi Owners Association
House No. 4/4, Prabhu Wada, Calangute
Badez – 403 516, Goa | Opposite Party No. 2 |
| 3. Federation of Tourist Taxi Owners and Drivers Goa
Instituto Nossa Sehnora De, Opposite Captain of Ports,
Near SBI-Mandovi Branch, Panji – 403 521, Goa | Opposite Party No. 3 |
| 4. Centre for Responsible Tourism
Instituto Nossa Sehnora De, Opposite Captain of Ports,
Near SBI-Mandovi Branch, Panji – 403 521, Goa | Opposite Party No. 4 |

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member



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ORDER

1. The present case was taken up by the Commission *suo motu* in terms of provisions of Section 19(1) of the Competition Act, 2002 ('the Act') against tourist taxi unions operating in the State of Goa based on newspaper reports regarding alleged concerted action on their part to prevent entry of app-based taxi aggregator companies in the State of Goa.
2. In addition to various newspaper reports, it was noted that an online petition addressed to the then Chief Minister of Goa was also initiated on the web portal *www.Change.org*, in April, 2017 advocating for entry of app-based taxi aggregator services in the State of Goa. In the said petition, displeasure was expressed over the dismal state of affairs of public transport in Goa. Further, the petition also highlighted that taxi drivers were not using the fare meters and were charging higher fares from the consumers. The petition enlisted various benefits of introducing app-based aggregators into the public transport market of Goa such as boost to the tourism sector, increase in tax revenue, gainful employment of drivers, cheaper fares, easy route detection *via* GPS, cashless payment with online receipt for every transaction *etc.*
3. It was reported in various newspapers that due to constant strikes by various taxi unions, tourists were getting affected in Goa. The demands of the unions included "crackdown on illegal taxi" and "cancellation of installation of speed governors". It was also reported in the newspapers that the taxi unions had solicited political influence to plead their case with the State Government.
4. Based on the above, the Commission noted in its *prima facie* order that the conduct of taxi unions in not allowing any app-based service providers in the State of Goa, was putting a restraint on services based on technology and limiting the competition, technical development as well as investment in provision of the relevant services. Further, the said conduct of taxi unions was also preventing introduction of reforms by the State Government aimed at bringing transparency and improvement in the delivery of services and thus



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resulting in restricting the choice of consumers in contravention to the provisions of Section 3(3)(b) read with Section 3 (1) of the Act.

5. Accordingly, the Commission *vide* its order dated 13.06.2018 passed under 26(1) of the Act, directed the Director General (DG) to carry out investigation into the matter and submit a report to the Commission. The DG submitted the investigation report on 13.01.2020.
6. The DG found the conduct/ practices of South Goa Tourist Taxi Owners Association (OP-1) and North Goa Tourist Taxi Owners Association (OP-2) in preventing entry of app-based taxi service providers in the State of Goa, in violation of the provisions of Section 3(1) of the Act read with Section 3(3)(b) thereof. Also, the conduct of Centre for Responsible Tourism (OP-4), by virtue of being partner of OP-1 and OP-2 in such anti-competitive conduct/ practices, was noted to be in violation of Section 3(1) of the Act. The DG, however, noted that Federation of Tourist Taxi Owners and Drivers Goa (OP-3) was a non-existent entity and as such, recommended dropping of its name from the array of parties.
7. To investigate the matter, the DG issued probe letters to the office bearers of OPs and their depositions were also recorded. Notices were also issued to third parties/ stakeholders in the State of Goa seeking information. Further, depositions of various third parties/ senior officers of various app-based taxi aggregators were recorded. Relevant information was also collected from Transport Department, Government of Goa on this issue. The DG also assessed information and data available in public domain to ascertain the present state of affairs/ conduct of taxi associations operating in Goa and their members.
8. The DG noted that OP-1 is an association of taxi owners of South Goa district and was registered under Societies Registration Act, 1860 with registration No. 348/Goa/2012 in 2012. OP-2 is an association of taxi owners of North Goa district and was registered under the Societies Registration Act, 1860



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with registration No. 407/Goa/2010 in 2010, having approximately 2,600 Tourist Taxi Owners registered as members.

9. The DG noted that Caritas Goa, a parent organization of the Centre for Responsible Tourism/ OP-4, had mooted an idea to create OP-3 as an umbrella organization of all taxi unions of Goa, free from any political affiliation, for the indigenous people of Goa involved in the Tourism Industry. OP-3, however, could not come into light formally. Hence, the DG did not look into the conduct of OP-3 and recommended dropping of its name from the array of parties.
10. As regards OP-4, the DG noted that it was not a separate legal entity itself, rather the same is part of “*Caritas Goa*” which is a socio-religious organisation registered as a society.
11. Noting tourism to be the backbone of Goa’s economy, the DG analysed the market structure and noted that in the taxi market, there are five types of taxis in India *viz.* Black and Yellow taxis, shared taxis, radio taxis, app-based taxi aggregators and self-drive cars. The DG noted that there are no fare meters and organised groups of taxi operators in Goa control the rates as well as the routes. Further, it was observed that the taxi operators in North and South Goa use different rate charts and tourists in Goa have to pay more than thousands of rupees even for short distance travel.
12. The DG found that the Government of Goa had introduced, *GoaMiles*, a taxi smartphone app similar to Uber and Ola, thereby, subsidising the taxi fares by almost half of what one would pay to a taxi driver off the street. The DG also stated other benefits of app-based taxis to consumers, which include instant hiring 24*7 from anywhere, hassle free payment, transparent system of rating, exact information about location and time, *etc.* Security is also an advantage as the drivers are registered and cars can be tracked. The taxi unions in Goa opposed this app-based service and also demanded that the government hike the taxi fares in light of rise in fuel prices and higher cost of living.



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13. Based on investigation, the DG observed that the app-based taxi aggregator Uber wanted to enter the market of taxi services in Goa, however, the open protests by taxi unions/ OPs resulted in denial of market access to Uber. The DG also observed that OLA had started its operations in the State of Goa in 2013 but faced oppositions from taxi associations/ OPs. Because of safety concerns, OLA had stopped its operations in Goa. Further, during investigation, certain violent incidents were reported alleging manhandling of Zoomcar users and their vehicles damaged by local taxi union operators. Further, the DG noted in the investigation report that the OPs not only organised public demonstrations and strikes, but also, physically intimidated various other stakeholders.
14. From the depositions of office-bearers of OPs, the DG noted that both OP-1 and OP-2 had opposed the entry of app-based taxi aggregators in the State of Goa and for this purpose used various tools like strikes, protests, going off road, *etc.* From the deposition of the representative of OP-4, the DG found that OP-4 used to act as an advisor to OP-1 and OP-2 and instigated them to oppose the entry of app-based taxi aggregators in Goa. The DG further observed from the deposition of General Secretary of OP-1 that there was an opposition to the app-based taxi aggregators and this was done in consonance with OP-2. The DG noted that there was collusion between OP-1 and OP-2 in opposing the entry of app-based taxi aggregators in Goa in the form of joint representation to State Government and in the form of agitation on streets.
15. In view of the above, the DG noted that the OPs were deeply disturbed at the entry of app-based taxi aggregators in the State of Goa and tried everything in their capacity to ensure that these app-based taxi aggregators do not enter or continue to operate in the taxi market in the State of Goa. The DG noted that most of this opposition was in the form of public agitation, strikes, physical intimidation *etc.* Thus, the DG concluded that the OPs have been hugely successful in achieving their objective of stalling and preventing the entry of app-based taxi aggregators in the State of Goa, barring one feeble



attempt by the State Government to launch the state-run service by the name ‘GoaMiles’.

16. Further, the DG emphasized that General Secretary of OP-2, in his reply, has admitted to colluding with OP-1 and OP-4 in opposing the entry of app-based taxi aggregators in Goa. The DG noted that both President and Vice President of OP-2 also admitted that they were opposing the entry of app-based aggregators in the State of Goa along with OP-1. From the reply filed by the representative of OP-4, the DG observed that OP-4 took the initiative of organizing meetings between OP-1 and OP-2, where the denial of market entry to app-based taxi aggregators was planned. The deposition of the General Secretary of OP-1 also revealed that OP-1 and OP-2 were actively involved in opposing the entry/ operations of app-based taxi aggregators in Goa. It was noted that smaller associations like ‘*Association of Black and Yellow Taxies*’ also supported the strike call given by the OPs but they were not actively involved in the conduct.
17. The DG noted that the Directorate of Transport, Government of Goa, in its reply denied receiving any joint representation from OP-1 and OP-2. However, it was submitted by the Directorate of Transport that this does not mean that the OPs were not acting in concert in opposing the entry of app-based aggregators. As per the DG, the conduct of OP-1, OP-2 and OP-4 limited the additional choices of taxis for consumers in the State of Goa. Thus, the DG concluded that the conduct of OP-1, OP-2 and OP-4 in preventing entry/ continuance of operations of app-based taxi aggregators in the State of Goa is an action of concert which resulted in limiting and controlling the supply of taxi services in the State of Goa.
18. In sum, the DG, concluded that the conduct of OP-1 and OP-2 in preventing the entry of app-based taxi service providers in the State of Goa amounts to an agreement which is in violation of provisions of Section 3 (1) read with Section 3 (3) (b) of the Act. The DG also concluded that the conduct of OP-4 by virtue of being a partner of OP-1 and OP-2 in such anti-competitive



conduct caused appreciable adverse effect on competition thereby, violating the provisions of Section 3 (1) read with Section 3(3)(b) of the Act.

19. The Commission considered the investigation report in its ordinary meeting and decided to forward the same to OP-1, OP-2 and OP-4. OP-3 was deleted from the array of parties, as recommended by the DG being a non-existent entity.
20. No response was filed on behalf of OP-1.
21. OP-2, in its response, submitted that the DG failed to appreciate the facts correctly. Apart from depositions of interested persons, and selective newspaper reports that portray the OPs in bad light, no other material has been placed on record/ considered by the DG. Not even an attempt has been made to consider and to investigate equally, if not more, the relevant material in the form of news articles, social studies *etc.* which reflects very poorly on the conduct of these app-based taxi aggregators, their questionable business practices, long hours of continuous driving by their drivers as well as an incentive scheme that is both anti-driver and anti-consumer, serving to solely line the coffers of these said companies.
22. OP-2 further submitted that OLA & Uber enjoy an unofficial duopoly without any substantial third player in the market. It was submitted by OP-2 that despite overwhelming evidence leading to the inescapable conclusion that entry of app-based taxi services is virtually a death knell to the local cab operators, as well as the questionable business practices and ethics adopted by these companies, the DG has not investigated and considered any of these aspects.
23. OP-2 submitted that it cannot be faulted for democratically and peacefully voicing its opposition against the entry of players which would have had a direct effect of gravely impinging upon the livelihood of taxi owners in the State of Goa. OP-2 further submitted even though instances of violence had been mentioned in the DG Report, the record did not contain any relevant



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details of FIR/ Complaint/ Court order to indicate that such violence was caused by or at the behest of any driver affiliated to OP-2.

24. OP-2 further submitted that it had been acting democratically within the letter of the law to voice its grievances against the entry of OLA, Uber *etc.* in the State of Goa and such actions are well within the contours of constitutionally permissible dissent for protection of a fundamental right.
25. OP-2 averred that despite the opposition of OP-2, the Government of Goa went ahead and formulated a policy titled “*Guidelines for Taxi Operator/Radio Taxis/Rent A Car and Taxi App Aggregators in the State of Goa*”. As per the said policy, app-based taxi aggregators have been permitted to operate in the State of Goa. The policy also allows app-based taxi aggregators to have dynamic pricing along the lines of the business model of *Ola* and *Uber*. Thus, OP-2 submitted that its demands were rejected in entirety by the Government of Goa.
26. Lastly, OP-2 submitted that it has only around 2800 members in North Goa and an equal number of taxis not affiliated to OP-2 are plying in North Goa. OP-2 is merely a Registered Society and holds no sway with the State Government. There was no agreement, either express or implied, between OP-2 and any other OPs. The OP-2 stated that the OPs were simply espousing the same social cause *i.e.* welfare of native Goan drivers in the State of Goa. Thus, OP-2 submitted that the application of Section 3 of the Act was wholly unwarranted in the facts and circumstances of the present case.
27. OP-4 in its reply denied all the allegations levelled against it in the DG Report and submitted that it is an unregistered organization merely acting as an advisory body and devoted to improving and promoting the right kind of tourism in the State of Goa and has no role in the daily operations of OP-1 or OP-2 whatsoever. Further, it submitted that it has no direct/ indirect control over operations of OP-1 and OP-2.



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28. OP-4 also submitted that it has neither advised other OPs to call out strikes against entry of OLA and Uber, nor has it ever opposed the State Government's app-based taxi services namely "GoaMiles". OP-4 further submitted that there had been no correspondence on its behalf with any Government authorities specifically relating to issues highlighted on behalf of OP-1 and OP-2. OP-4 submitted that the DG has failed to consider that neither OP-4 has any direct economic interest in the taxi business, nor does it protect economic interest of the taxi owners/drivers.
29. Lastly, OP-4 submitted that it is not being benefitted in any manner from the restriction of entry of app-based taxi aggregators like OLA and Uber in the State of Goa.
30. The Commission has perused the DG Report and considered the submissions of the Opposite Parties and the material available on record.
31. The Commission notes that the conclusion of the DG was mainly based on submissions of the OPs and third parties as well as information available in public domain, whereby, the DG concluded that the OPs resorted to various steps such as strikes, public agitations and in some cases physical intimidation to ensure that app-based taxi aggregators do not enter the market for providing taxi services in the State of Goa. Further, with respect to the conduct of OPs indulging in strike, the Commission notes no material has been adduced by the DG, except few You-tube videos, Facebook blogs and news clippings, and as such, such material remained uncorroborated and unauthenticated, wherefrom any concert can be imputed to or otherwise attributed to the OPs.
32. Further, the Commission observes that the DG has failed to examine the reasons mentioned by the OPs during the course of investigation for resorting to strikes, which included increase in fees for permits, backdoor entry of app-based taxi aggregators and installation of speed governors in taxis. OP-4 pointed out other issues as well that led to strikes such as *'proposed Mopa Airport, Speed Governors, Harassment of taxi drivers at the airport, frequent*



requests to the Government of Goa for putting up taxi fare rates at all tourist destinations, to stop private cars operating as illegal taxis, and to stop private cars being given on rent for self-driving’.

33. With regard to restricting entry of Ola and Uber by the impugned conduct of OPs, the Commission observes from the deposition of Mr. Prabhjeet Singh, the authorized representative of Uber B. V. before the DG, that Uber has not even applied for any license for starting app-based taxi services in the State of Goa. For completeness, the relevant portion of the deposition is extracted below:

‘Qus.4 What submissions were made by Uber to Govt. of Goa for seeking license/permissions to operate in Goa?’

Ans.4 In this connection we have not made any formal submission to Govt. of Goa for starting operations in Goa.’

As regards OLA, the DG failed to examine the reasons behind its exit from the Goan market after entering the said market as early as 2013. At page 51 of the investigation report, the DG had quoted the statement made by Mr. Shekhar Dutta, Senior Director, ANI Technologies (OLA), in response to Question No.3, Mr. Dutta responded by saying that they received threats from Taxi Owners Associations (without naming any specific OPs) and the association members vandalized the assets and did *gherao* of their office premises without elaborating any details of such incident in precise manner.

34. In this regard, the Commission notes that Mr. Dutta, during examination had assured the DG that he would submit documentary evidence to the DG in due course about such incidents of violence in detail. However, from the records, it is clear that such details were not shared by the representative of OLA to the DG. Hence, it cannot be conclusively inferred that the reason behind non-entry of app-based taxi aggregators such as Ola and Uber in the Goan market was due to the pressure and undue threat of OPs.



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35. The Commission also notes that giving joint representation to the Government or meeting with head of political executive, raising grievances, cannot be said to violate the provisions of Competition Act. Even otherwise, there is nothing on record to suggest that the OPs have given any joint representations to the State Government in coordination with each other.
36. Before concluding, the Commission also observes that State of Goa took a policy decision and issued guidelines titled as “*Guidelines for Taxi Operator/ Radio Taxis/ Rent A Car and Taxi App Aggregators in the State of Goa*” dated 06.03.2019. As per the Clause 6 of the guidelines, app-based taxi aggregators have been permitted to operate and have been allowed to have range bound dynamic pricing, which is on lines of the business model of OLA & Uber. Thus, it is clear that despite the opposition of OPs, the State of Goa does not appear to have acceded to or conceded to the demands of the OPs and the policy allowing entry of app based taxi aggregators was eventually notified.
37. In view of the foregoing, the Commission is of the opinion that no case of contravention of the provisions of Section 3 (1) of the Act read with Section 3 (3) thereof is made out against any of the OPs and matter is directed to be closed forthwith.
38. The Secretary is directed to communicate to all concerned, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

Date: 22/06/2021
Place: New Delhi